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**TITLE 312 NATURAL RESOURCES COMMISSION****Notice of Public Hearing**  
LSA Document #06-272**Notice of Public Hearing**

Under [IC 4-22-2-24](#), notice is hereby given that on February 13, 2007 at 6:00 p.m., in the Blue Heron Room, The Garrison, Fort Harrison State Park, 6002 North Post Road, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 9](#) governing management of fish and wildlife.

The proposed rule amendments would not impose requirements or costs under [IC 4-22-2-24\(d\)\(3\)](#) except with respect to the proposed amendments to [312 IAC 9-4-14](#), which adds the cerulean warbler to the state's endangered species list. State law, in [IC 14-22-34-11](#), requires the DNR to review the state's list of endangered species at least every two years and amend the list by additions or deletions when appropriate. These additions and deletions are based upon research conducted by DNR biologists as well as other scientific data, as required by [IC 14-22-34-10](#). The research and information used to propose the rule changes were supplied by DNR biologists, with consultation from their supervisors. The proposed change to add the cerulean warbler to the state's endangered species list was based primarily on evidence of population decline from the following scientific research:

- a. USGS roadside breeding bird survey data show a long term decrease in Indiana (-8.9%/year for 1966-2002; -11.3%/year for 1980-2002) and in the region (Region 3: -6.4%/year 1966-2002; - 8.9% 1980-2002).
- b. Indiana Summer Bird Count data reveals a consistent pattern of decline for northern, central, and southern regions of the state. Statewide, 5.4 birds were reported per 100 party-hours from 1985 to 1990 compared to 3.6 per 100 party-hours from 1999-2003.
- c. A long term compilation of statewide reports for the cerulean warbler, compared to those of other species, show a pattern of decline relative to other forest passerine populations (source Ken Brock compilation). These data are independent from the breeding bird survey data.
- d. Members of the DNR Nongame bird technical advisory committee did not report any locations with increasing populations but instead identified specific areas in the state where populations have declined.
- e. The U.S. Fish and Wildlife Service is also considering listing this species on the federal endangered species list due to its decline throughout the country.
- f. The Breeding Bird Atlas for Indiana has only six confirmed sites and 59 probable sites of locations where cerulean warblers are found.

Only those regulated entities required to obtain a permit for construction in a floodway or do other construction projects that will reduce or eliminate nesting habitat for cerulean warblers will be subjected to imposed costs or requirements. Permits for such projects are already required; however, a site associated with such projects that have documented reports of cerulean warblers may now have additional costs or requirements. If the proposed project for which a permit is sought will destroy habitat for cerulean warblers, the DNR may request that the habitat destruction be minimized or require that additional property or easements be obtained to acquire and protect habitat for the cerulean warbler. The DNR estimates that costs associated with the minimization of habitat destruction or mitigation will cost less than \$500 per year (approximately two day's work) for a project plan to be revised adequately to minimize the destruction of habitat for the cerulean warbler or to obtain an easement on additional land that will protect that land and provide habitat for the cerulean warbler. Costs for easements or additional land would vary based upon the location and amount of land.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Richard J. Cockrum  
Chairman  
Natural Resources Commission

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